REMARKS

Claims 1, 2, 4 to 11, 27, 29, 35 and 41 to 46 are now pending.

Applicants respectfully request reconsideration of the present application in view of this response.

Applicants again respectfully request that the Examiner acknowledge whether the Drawings are accepted in the next Office communication.

With respect to paragraph one (1) of the Office Action, the withdrawal as to claims 41 to 46 is traversed as improper. The dependent claims 41 to 46 respectively depend from claims 1, 2, 11, 27, 29 and 35, and merely include narrowing features of the address filter feature of the independent claims previously presented. It is respectfully submitted that any review of the sections cited in the Office Action and the established law on restrictions makes plain that dependent claims which merely narrow a feature, as with claims 41 to 46, are not subject to restriction merely to avoid addressing the patentability of the subject matter of such claims.

Accordingly, it is respectfully requested that the restriction be withdrawn.

With respect to paragraph three (3) of the Office Action, claims 1, 2, 4, 5, 11, 27, 29 and 35 were rejected under 35 U.S.C. § 103(a) as obvious over Aramaki, U.S. Patent No. 5,485,457.

As generally regards the obviousness rejections, it is believed that the Office Action has confused the address filter with the time information features of the presently claimed subject matter (see, e.g., pages 23 to 27 of the specification of the present application, which discusses these features with respect to the Figure 14 embodiment).

In particular, while the rejections may not be agreed with, to facilitate matters, claim 1, as well as each of the independent claims, provides the feature *in which said address filter captures a cell having an address of said address filter as an actual cell, and generates, for a cell that does not have said address of said address filter, a dummy cell with time information of the cell, and stores said actual cell or said dummy cell in said first buffer*. Accordingly, claim 1 as presented is allowable for the following reasons:

The Office Action equates "second buffer which stores a cell arriving from another cross-point" with FIFO 38-2, and equates "another cross-point" with another switch. The "Aramaki" reference does not disclose or even suggest that one basic switch includes plural cross-points, in which at each of the cross-points an input line and an output line are crossed,

and each cross point includes the first buffer and the second buffer as claimed. In addition, as the Office Action admitted, "Aramaki" does not disclose or even suggest the address filter, in the cross-point, for extracting a cell arriving from the input line.

Further, "Aramaki" does not disclose or suggest the added feature in which the *address filter captures a cell having an address of said address filter as an actual cell, and generates, for a cell that does not have said address of said address filter, a dummy cell with time information of the cell, and stores said actual cell or said dummy cell in said first buffer.*

Accordingly, claim 1 as presented is allowable, as are its dependent claims.

As further regards claims 41 to 46, which respectively depend from claims 1, 2, 11, 27, 29 and 35, while these claims were withdrawn and therefore not rejected as obvious, it is noted that the "Aramaki" reference (as well as the other references relied upon) do not disclose or suggest the features of the address filter in which a selection process of the head cell with a probability 1 to k-1. In particular, this feature provides the following:

> [The] address filter captures a cell having an address of said address filter as an actual cell, and generates, for a cell that does not have said address of said address filter, a dummy cell with time information of the cell, and stores said actual cell or said dummy cell in said first buffer, if types of head cells in said first buffer and said second buffer are the same and also time information of said head cells are the same, a k-th cross point selects a head cell from said first buffer and said second buffer with a probability of a ratio of 1 to k-1 so as to send a selected head cell to the another cross-point or said output port, wherein k is a natural number, and if said types of head cells are different but time information are the same, said address filter selects said actual cell so as to send said actual cell to other cross-point or said output port.

These features are simply not described or even suggested for a basic switch including the claimed layered cross-points each including an address filter, as provided for in the context of claim 1 as presented. It is also believed that the Office Action has confused the address filter with the time information features of the presently claimed subject matter (see, e.g., pages 23 to 27 of the specification of the present application, which discusses these features with respect to the Figure 14 embodiment).

Accordingly, claims 41 to 46 are also allowable for the foregoing reasons.

Claims 4 to 10 depend from claim 1 as presented, and are therefore allowable for the same reasons as claim 1 as presented.

Independent claims 2, 11, 27, 29 and 35 include features like those of claim 1 as presented, and are therefore allowable for essentially the same reasons as claim 1 as presented.

Accordingly, each of independent claims 1, 2, 11, 27, 29 and 35, as presented, and their respective dependent claims, are allowable, as explained above.

As regards paragraph four (4), claims 6 to 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over the "Aramaki" reference in view of the "Fan" reference, U.S. Patent No. 5,337,308.

Claims 6 to 8 depend from claim 1 as presented, and are therefore allowable for the same reasons as claim 1 as presented, since the secondary reference does not cure the critical deficiencies of the primary "Aramaki" reference. Accordingly, claims 6 to 8 are allowable.

As regards paragraph five (5), claim 9 was rejected under 35 U.S.C. § 103(a) as unpatentable over the "Aramaki" reference in view of the "Averbuch" reference, U.S. Patent No. 6,160,805.

Claim 9 depends from claim 1 as presented, and is therefore allowable for the same reasons as claim 1 as presented, since the secondary reference does not cure the critical deficiencies of the primary "Aramaki" reference. Accordingly, claim 9 is allowable.

As regards paragraph six (6), claim 10 was rejected under 35 U.S.C. § 103(a) as unpatentable over the "Aramaki" reference in view of Henrion, U.S. Patent No. 5,127,000.

Claim 10 depends from claim 1 as presented, and is therefore allowable for the same reasons as claim 1 as presented, since the secondary reference does not cure the critical deficiencies of the primary "Fan" reference. Accordingly, claim 10 is allowable.

As further regards all of the above obviousness rejections, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature and there must be a motivation or suggestion for combining the features in the manner contemplated by the claim. (See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the "problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem", Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 679 (Fed. Cir. 1998). It is respectfully submitted that the references relied upon simply do not address the problems (referred to in the present application) that are met by the address filter subject matter of any of the rejected claims.

The cases of In re Fine, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988), and In re Jones, 21 U.S.P.Q.2d 1941 (Fed. Cir. 1992), also make plain that the Office Action's assertions that it would have been obvious to modify or combine the references relied upon does not properly support a § 103 rejection. It is respectfully suggested that those cases make plain that the Office Action reflects a subjective "obvious to try" standard, and therefore does not reflect the proper evidence to support an obviousness rejection based on the references relied upon. In particular, the Court in the case of In re Fine stated that:

> Instead, the Examiner relies on hindsight in reaching his obviousness determination. . . . **One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.**

In re Fine, 5 U.S.P.Q.2d at 1600 (citations omitted; emphasis added). Likewise, the Court in the case of In re Jones stated that:

> Before the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. . . .
>
> **Conspicuously missing from this record is any evidence, other than the PTO's speculation (if it be called evidence) that one of ordinary skill . . . would have been motivated to make the modifications . . . necessary to arrive at the claimed [invention].**

In re Jones, 21 U.S.P.Q.2d at 1943 & 1944 (citations omitted; italics in original).

That is exactly the case here since it is believed and respectfully submitted that the Office Action reflects hindsight, reconstruction and speculation, which these cases have indicated does not constitute evidence that will support a proper obviousness finding.

More recently, the Federal Circuit in the case of In re Kotzab has made plain that even if a claim concerns a "technologically simple concept" — which is not even the case here, there still must be some finding as to the "specific understanding or principle within the knowledge of a skilled artisan" that would motivate a person having no knowledge of the claimed subject matter to "make the combination in the manner claimed", stating that:

> In this case, the Examiner and the Board fell into the hindsight trap. The idea of a single sensor controlling multiple valves, as opposed to multiple sensors controlling multiple valves, is a technologically simple concept. *With this simple concept in*

> *mind, the Patent and Trademark Office found prior art statements that in the abstract appeared to suggest the claimed limitation. But, there was no finding as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of Kotzab's invention to make the combination in the manner claimed.* In light of our holding of the absence of a motivation to combine the teachings in Evans, we conclude that the Board did not make out a proper *prima facie* case of obviousness in rejecting [the] claims . . . under 35 U.S.C. Section 103(a) over Evans.

(See In re Kotzab, 55 U.S.P.Q.2d 1313, 1318 (Federal Circuit 2000) (italics added)). As referred to above, any review of the reference relied upon makes plain that it simply does not describe the features discussed above of the rejected claims.

In summary, it is respectfully submitted that all of claims 1, 2, 4 to 11, 27, 29, 35, and 41 to 46 as presented, of the present application are allowable at least for the foregoing reasons.

CONCLUSION

In view of the foregoing, it is believed that the rejections have been obviated, and that claims 1, 2, 4 to 11, 27, 29, 35, and 41 to 46 as presented, are allowable. It is therefore respectfully requested that the rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,
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